

1860-005 Chancery Causes. William A Jones & wife vs Joseph Ely. asgn to  
Lee Co.

Crabtree, Garrett, Wooliver, Thompson, Haburn,

CA - Debt  
T - Property



To the Honorable Samuel V Fulkerson, Judge of the Circuit Court of Lee County. The bill of complaint of William A Jones & Manasha Ann Jones his Wife formerly Manasha Ann Haburn, respectfully represents, that at the June term of the County Court of Lee County 1859. a judgment at law was obtained by one Joseph Ely assignee of James Crabtree against your Orator and Oratrix for the sum of \$400-<sup>100</sup>/<sub>100</sub> besides interest and costs, which judgment your Orator & Oratrix conceive ought to be perpetually enjoined. To shew which, your Orator & Oratrix would beg leave to state that the note declared on, upon which said judgment is founded was executed by your Oratrix whilst a feme sole together with James F Jones as her surety in said note, to said Crabtree in part consideration of a certain tract or parcel of land situated in Lee County on the head of Shavers Creek, containing 460 acres, which tract of land the said James Crabtree and Martha his Wife bargained and sold to your Oratrix whilst a feme sole for the sum of \$3000-00 and the said note upon which said judgment is founded is in part the last payment of the said purchase money, and the said James Crabtree & Wife on the 19<sup>th</sup> day of October 1857 executed to your Oratrix a deed with covenants, of General Warranty for said 460 acres of land, <sup>a copy of</sup> which and will hereafter be filed as part of this bill marked (A). At the time of the purchase of said <sup>tract of</sup> land by your Oratrix, and at the time of the execution of said deed by said James Crabtree & Wife to your Oratrix she believed the title of said <sup>460 acres of</sup> land to be good as was represented by said Crabtree & Wife. The said James Crabtree & Wife have removed to the State of Texas, and have left no property in this Commonwealth, and are regarded to be worth but



little or no property where they now reside. Your Orator and Oratrix would beg leave to state that since the said Crabbree & wife removed from this Country - they have to their great surprise, learned that James Garrett of Lee County claims right to about 90 or 100 acres of the said 460 acre tract purchased as aforesaid by your Oratrix from said Crabbree & wife which land thus claimed by said Garrett is worth at the least \$1000.00. The said Garrett alleges that the said Crabbree contracted verbally with him for said 90 or 100 acres of land and never paid him for it, and that he the said Garrett had not conveyed said land to said Crabbree, and would not convey the same either to the said Crabbree or to your Oratrix & Orator, and the said Garrett is now threatening to bring suit to dispossess your Orator & Oratrix of said land. Your Orator and Oratrix would further state that if the contract between said Crabbree & Garrett is one that the contract can be enforced in a court of equity so as to extract from the said Garrett the legal title of said 90 or 100 acres of land - in that event still the land will be liable for the purchase money thereof claimed to be due to said Garrett, which together with the legal interest will more than cover the amount of said judgment recovered by said Joseph Ely - assignee &c as aforesaid - and it would be unjust for your Orator & Oratrix to have to pay said judgment - being \$400.00 besides interest and costs as aforesaid to said Ely assignee &c, it being a balance of the \$3000. that said Oratrix contracted to give for said 460 acre tract of land, and that she should also be compelled to pay to said Garrett the purchase money due to him from said Crabbree for said 90 or 100 acres of land as aforesaid.

Your Orator & Oratrix further aver that George Woolver & Mary his wife, Daniel Thompson & Emily his wife, John Garrett & Wm Garrett, heirs at law of Luke Garrett Deed are claiming right to about 40 acres of said 460 acre tract of land sold by said Crabbree to your Oratrix as aforesaid which 40 acres is well improved and worth \$400.00. The said heirs of Luke Garrett say that said 40 acres was owned by said Luke Garrett in his lifetime, and that the said Luke never conveyed the said 40 acres to said Crabbree, or to any other person, and that at the death of said Luke the legal title to said 40 acres of land vested in them as the legal heirs of said Luke Garrett Deed, and that they never have conveyed their said interest in said 40 acres of land to said Crabbree or any other person & that they are also now threatening to bring suit for the purpose of recovering the possession thereof. Your Orator & Oratrix further aver that the said heirs of Luke Garrett Deed are also claiming right to about 10 acres more of said 460 acre tract of land sold by said Crabbree to your Oratrix. The said heirs of said Luke say that said 10 acres was laid off to Nancy Garrett the widow of said Luke Garrett Deed as her dower out of a certain tract of land owned by said Luke in his lifetime and that said land was never conveyed by said Luke in his lifetime to said Crabbree, or to any other person, and the said heirs of said Luke say that they have never conveyed the same to said Crabbree or to any other person <sup>since the death of said Luke</sup>. Your Orator & Oratrix aver that said 10 acres being the dower of Nancy Garrett is in the bounds of the 460 acre tract sold by said Crabbree & wife to your Oratrix - They further aver that said 10 acres is well improved with comfortable buildings & an apple & peach Orchard thereon, and is worth \$200.00 They moreover say that the said Nancy Garrett is a very feeble Old Woman who cannot live long, and that the said



heirs of said Luke Garnett Did say that they intend holding the same at her death.

And your Orator & Oratrix being without an adequate remedy at common law and redressable only in a court of equity. Their prayer therefore is that the said Joseph Ely - James Crabbie & Martha Crabbie, James Garnett, George Woolmer & Mary his Wife, Daniel Thompson & Emily his Wife, John Garnett & Wm Garnett be made parties Dyts to this bill, and that each of them be required to make full true and perfect answers thereto on oath, that order of publication be made against said Crabbie & Wife, who are non residents of this State, that an injunction be granted by your Honor to stay all further proceedings upon said judgment until the matters herein contained can be fully heard and adjudicated, that upon a final hearing of the case the said injunction be perpetuated, and that such other and further relief be continued by your Hon, to your Orator & Oratrix in the premises as to justice and equity belongs, and is suited to the particular circumstances of their case. May it please your Honor to grant that the Commission altho writ of Spa be directed &c.

Kanes

To See County Court;

This day William A Jones personally appeared before the undersigned a justice of the peace in and for said County and made oath that ~~the~~ the allegations contained in the foregoing bill are true so far as they depend upon his own knowledge and so far as they depend upon the information of others he believes them to be true; Given under my hand this 18<sup>th</sup> day of July 1839.

William Marshall C J. S.



Wm A Jones & Wife

vs { Bill

Joseph Cely assignor

Upon the execution of  
a release of error in the  
suit at law, and upon  
bond being executed with  
good security in a penalty  
double the amount of the  
judgment in the bill  
mentioned with condi-  
tions as prescribed by  
law, an injunction  
is granted as prayed  
for.

Saml. V. Sullivan

22 July 1859

C. C. Lee Co.

Left Rules Bill filed

R. M. Hamilton clerk

Same executed & release of error filed  
19th day of Sept 1859.

1859 C. C. Lee Co.

Costs

County Ct \$2.00  
Circuit Ct 3.90  
Attorney 15.00  
21.94

all ctd. - 164



From A Jones & Wife  
vs  
Joseph Ely Apinec & Co.

Decree

This cause came on, this 15<sup>th</sup>  
day of October 1860, to be heard, on the bill,  
answer, and exhibits filed, and was argued  
by Counsell, whereupon it is ordered, ad-  
judged and decreed that the injunction here-  
tofore granted in this cause be dissolved, ~~and~~  
~~that the right of the Plaintiff to the right of his~~  
~~property be restored, and damages of the~~  
~~of \$1000 be paid, and that the cause is con-~~  
~~tinued till the next term, and the Pltff~~  
having prayed a suspension, it is further  
ordered that there be a suspension of ex-  
ecution for the period of Ninety days, on  
the Complainants <sup>with approved security</sup> executing a bond  
in the penalty of One hundred Dollars  
conditioned for the payment of all damage  
that may accrue by reason of said suspen-  
sion. And the Cause is continued till the  
next Term.

Wm A Jones & Wife  
vs } Decree  
Jos Ely, Appinee &c,

---

Octo. 1860

*[Signature]*

11<sup>th</sup> Oct 1860 Dissolved

chd 164.

Enter This

S.V.L.

*[Signature]*



Va Lee County Court

This day William A Jones personally appeared before the undersigned Commissioner in chancery for the circuit Court of Lee County Va and made oath that he would be taken at Very great Surprise to submit the chancery case of himself and wife vs Joseph Ely Affee & Co at the present ~~term of the~~ Special Term of the circuit court of Lee County, <sup>in which with that very great injustice would be done</sup> because he says that it is a case in which Judge Fulkerson has not been counsel on either side & that he had been informed that the Judge now holding said Special term would only try such cases, <sup>as</sup> that Judge Fulkerson had been counsel in; and from that fact, together with the additional fact that he had never been able to see Defts Answer until the present term of this court. This affiant failed ~~to~~ to take any testimony sustaining the allegations of his bill, & to make the necessary preparations for submitting the case at this term of the court; but intended to do so before the fall term of the circuit court of said County to be held by Judge Fulkerson. Affiant further states that at the Spring term of said court that the papers of said case were <sup>either</sup> lost or misplaced so that he ~~him~~ nor his counsel could get to see them to know what was necessary on his part to be done in the case and he further states that Defts answer only appears to have been filed at the July Rules 1860 in this present month, <sup>& of which motion to dissolve he had no notice</sup> Given under my hand this 24th day of July 1860.

H. J. Morgan Comr. & Co



14  
Wm A. Jones & wife  
vs { Affiant  
Joseph C. Speer & Co



I William A. Jones of Lee County do Release all  
error in a Judgment of the County Court  
at its June term 1837 in favor of Joseph Ely  
assignee of James Crabtree against me and Manassah  
Amos Jones. for \$400.00 with interests and costs  
Given under my hand and seal the 19<sup>th</sup>  
day of September 1837.

W<sup>m</sup> A Jones Seal



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *Joseph Ely, James Crabtree, & Martha Crabtree, James Garrett, George Wooliver, & Mary his wife, Daniel Hampton & Emily his wife, John Garrett & William Garrett,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October* Rules next, to answer *a bill in Chancery exhibited*  
*in our said Court, against you by William A. Jones*  
*& Manassah Jones his wife.*

And have then there this writ. Witness, RICHARD M. HAMBLLEN, Clerk of our said Court, at the Court House,  
this *17<sup>th</sup>* day of *September* 18*87*, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen Ck.*



He is in the defendant's hands. He is a  
 all others concerned from further proceedings on  
 judgment of the County Court of the 1st June 1839  
 by Joseph Ely assignee of James Crabbree for \$100.00  
 with interest and cost against the complainant  
 and the further order of the Court.

John

Wm. Thompson Ely

Wm. A. Jones & wife  
 of Spain City  
 Joseph Ely and

Rec'd. Rules 1839  
 September the 7th 1839

Executed an James Crabbree  
 Garrett by serving a copy  
 with the defendant's wife  
 the defendant not being  
 at his place of abode  
 by serving copy with his  
 wife the defendant not being at his usual place of abode  
 Executed in Joseph Ely & John Garrett & Daniel  
 Thompson & wife Walver wife by handing them a copy  
 and not on James Crabbree nor his wife them  
 not being residents of Virginia William Garrett  
 is not a resident of this Commonwealth  
 Samuel L. Saul S.S. For  
 A. R. Russell S.L.C.



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

*Joseph Coby, James Crabtree,  
& Martha Crabtree James Garrett George Woodline  
& Mary his wife Daniel Thompson & Emily his wife  
John Garrett & William Garrett,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October* Rules next, to answer a bill in Chancery  
*filed in our said Court against you*  
*by William C. Jones & Martha Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLÉN, Clerk of our said Court, at the Court House,  
this *19<sup>th</sup>* day of *September* 18*57*, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen CLK*  
*A Copy Test*  
*R. M. Hamblen CLK*



To injoin the Defendant Joseph Ely his agent attorney  
and all others concerned from further proceedings on  
a judgment of the County Court of Lee at its June term  
1837 by Joseph Ely assignee of James Crabtree for Justice  
with interest and costs against the Complainants  
till the further order of this Court.

Teste

Wm. Hamden Clerk



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY, GREETING:

WE COMMAND YOU TO SUMMON

*Joseph Ely, James Crabtree &  
Martha Crabtree, James Garrott, George Hoeliver  
& Mary his wife, David Thompson & Emily his  
wife, John Garrott & William Garrott,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October*  
Rules next, to answer

*a bill in Chancery  
= filed in our said Court against you by  
William A. Jones & Manasha Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLER, Clerk of our said Court, at the Court House,  
this *19<sup>th</sup>* day of *September* 18*57*, in the *8<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblen CLK*  
*Copy List*  
*R M Hamblen CLK*



To inform the defendant Joseph Ely his agents  
attorney and all others concerned from further pro-  
ceedings and a judgment of the County Court of Lee at  
its June term 1837 by Joseph Ely assignee of James  
Coakley for \$100.00 with interest and costs against  
the complainants. till the further order of this  
Court

Test

R M Hamalen Ck



The Commonwealth of Virginia,

WE COMMAND YOU TO SUMMON

TO THE SHERIFF OF LEE COUNTY, GREETING:

*Joseph Ely, James Crabtree,  
& Martha Crabtree, James Garrett, George  
Hooliver, & Mary his wife Daniel Thompson & Emily  
his wife, John Garrett, & William Garrett,*

to appear before the Judge of the Circuit Court of Lee county, at the Court House, in the Clerk's office, at

*October* Rules next, to answer *a bill in Chancery exhibi-*  
*-ted in our said Court, against you by William &*  
*Jones & Marashee Ann his wife*

And have then there this writ. Witness, RICHARD M. HAMBLLEN, Clerk of our said Court, at the Court House,  
this *19<sup>th</sup>* day of *September* 1859, in the *8<sup>th</sup>* year of the Commonwealth.

*R M Hamblen CLK*  
*Attest*  
*R M Hamblen CLK*



To enjoin the defendant Joseph Ely his agent attorney  
and all others concerned from further proceedings on a  
Judgment of the County Court of Lee at its June term  
1857. by Joseph Ely assignee of James Crabbree, for  
\$400.00 with interest and costs. against the Complain-  
ants, till the further order of this Court;  
Teste 7

Wm Hamblen Clerk